

Message Text

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FM AMEMBASSY BERN

TO SECSTATE WASHDC IMMEDIATE 2547

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E.O. 11652: N/A

TAGS: SZ, CFED

SUBJECT: SEC V AIC CASE

AFFIDAVIT FORWARDED TO I.M. BOROWSKI ON APRIL 29, 1976

READS AS FOLLOWS:

BEGIN QUOTE:

AFFIDAVIT

1. I THE UNDERSIGNED, LAWYER DR. CARLO SGANZINI, IN LUGANO, WAS INSTRUCTED BY THE PROGRESS FOUNDATION, THE 26TH NOVEMBER 1975, AS LAWYER TO PROTECT ITS STAKES IN THE LAWSUIT INVOLVED AGAINST IT BY MR. EDWARD C. HARWOOD, DOMICILIATED IN GREAT BARRINGTON (USA).

2.1 IN THE CASE THAT IT DOES NOT EXIST AN AGREEMENT OF TRIAL ASSISTANCE BETWEEN SWITZERLAND AND THE LAND OF DOMICILE OF THE PLAINTIFF, THE CIVIL PROCEDURE OF THE CANTON TICINO PROVIDES AT ITS ART 153 B, THAT THE DEFENDANT CAN REQUIRE THAT THE PLAINTIFF MUST PAY A DEPOSIT IN MONEY OR EVEN WITH A BANKER GUARANTEE, IF HE IS DOMICILIATED ABROAD. THE SUIT WAS MADE BY THE DEFENDANT BECAUSE MR. HARWOOD HAS HIS DOMICILE IN USA, WITH WHICH SWITZERLAND HAS NO AGREEMENT OF TRIAL ASSISTANCE.

'ART. 153 B CPC: IL CONVENUTO PUO CHIEDERE, IN OGNI STADIO DELLA LITE, CHE L'ATTORE PRESTI CAUZIONE PER IL RIMBORSO DELLE SPESE E PER IL PAGAMENTO DELLE RIPETIBILI:

A) OMISSIS

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B) SE L'ATTORE E DOMICILIATO ALL'ESTERO E NON

BENEFICIA DI DISPOSIZIONI DI UN TRATTATO INTERNAZIONALE.'

3. IN THE HEARING OF THE 5TH APRIL 1976, MR. E. HARWOOD'S LAWYER DID NOT PROPOSE THE WITHDRAWING OF THE SUIT, BUT HE LIMITED HIMSELF TO REQUIRE THE INTERRUPTION OF THE PROCEEDING FOR THE FURNISHING OF BAILBOND.

IN A SUBSIDIARY WAY HE REQUIRED THE REDUCTION, OBSERVING THAT THE WORTH OF THE SUIT, INDICATED IN THE BEGINNING IN 10 MILLIONS, FOR THE REASON FOR THE CLAMPING OF THE ACTIVITY OF MONDIAL, WAS NOW REDUCTED TO ONE MILLION SFS. THE UNDERSIGNED INSISTED FURTHERMORE FOR THE WITHDRAWING OF THE LAWSUIT BY THE PLAINTIFF AS WITH THAT, THE CONDITIONS OF THE BAILBOND WOULD BE AUTOMATICALLY DROPPED AND FOR THIS MOTIVE THE JUDGE WOULD HAVE ONLY PRONOUNCED IN THE EXPENSES AND COSTS OF THE LAWSUIT WHICH AT THIS PERIOD WOULD PROBABLY NOT EXCEED TO SF 50,000.

4. THE DEFENDANT DID NEVER REQUIRE DAMAGES, BUT ONLY A BAILBOND FOR THE EXPENSES AND LEGAL COSTS, WHICH IN ANY CASE MUST BE FIXED BY THE JUDGE. NO OBSTACLE OPPOSED CONSEQUENTLY THE WITHDRAWING OF THE SUIT ON THE PART OF MR. E. HARWOOD. SUCH A WITHDRAWING MUST HOWEVER REACH WITHOUT CONDITIONS CONTRARY TO WHICH WAS REQUIRED BY MR. HARWOOD'S LAWYER IN HIS LETTER OF THE 19TH FEBRUARY 1976.

WHICH IS EXPOSED IN THE PRESENT AFFIDAVIT IS CONFIRMED BY THE FOLLOWING DOCUMENTS:

1. WRIT
 2. REQUEST OF BAILBOND
 3. COURT PROTOCOL OF THE 5TH APRIL 1976
 4. LETTER OF MR. CLERICETTI OF 19TH FEBRUARY 1976
- THIS ABOVE STATEMENT IS CONSISTENT WITH KNOWLEDGES OF TODAY AND NO RELEVANT FACTS HAVE BEEN OMITTED.
LUGANO, 28TH APRIL 1976. END QUOTE.
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